

Testimony of

The Honorable Patrick Leahy

December 4, 2001

Today this Committee holds two more hearings in an important and timely series begun last week on the Department of Justice's response to the September 11 attacks. Today's sessions focus on the Administration's plan to form military commissions that bypass our established court system and on the hundreds of people detained and arrested in the aftermath of September 11. I commend Senator Schumer, the chair of the Administrative Oversight and the Courts Subcommittee, and Senator Feingold, the chair of our Constitution Subcommittee, for holding today's hearings. They are acting in the finest tradition of the Senate and this country. Last week, Senator Specter wrote an article expressing his concern that the Administration had not demonstrated the need for the President's extraordinarily broad order on military commissions. Others, Democrats and Republicans, have expressed concern with the broad powers asserted by the Administration and with the manner in which it has asserted them - bypassing both Congress and the courts. Last Wednesday's hearing allowed this Committee to hear firsthand from legal experts across the spectrum on these questions and to assist in clarifying the Administration's intentions and actions.

It is never easy to raise questions regarding the conduct of the executive branch when we have military forces in combat, even when those questions do not focus on the military operations. The matters we are examining concern homeland security, constitutional rights, and preservation of the checks and balances on governmental authority that lay at the foundation of our constitutional democracy. This Committee hopes to cast the light of reasoned public inquiry on the Administration's actions, especially sweeping unilateral actions as might affect fundamental rights. Ultimately, taking a close look at assertions of government power is among the best ways we have to preserve our freedoms and keep our country safe.

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